



Ruben Cordova, Ph. D.
Assistant Superintendent
Curriculum & Strategic
Planning

POJOAQUE VALLEY SCHOOLS
Arthur Blea, Superintendent
1574 State Road 502
Santa Fe, New Mexico 87506
505-455-2282 505-455-7152 Fax

Elias J. Martinez, MBA
Chief Financial Officer

BEN Name: Pojoaque Valley School District
BEN Number: 143266
Form 470 Application Number: 761550000559280
FRN Numbers: 1438336, 1438392, 1434835

Received & Inspected

NOV - 4 2009
FCC Mail Room

Reference Document: Form 486 Number 596980
Form 486 Notification Letter for Funding Year 2006

September 30, 2009

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

RE: CC Docket No. 96-45 and CC Docket No. 02-6

REQUEST FOR REVIEW

To Whom It May Concern:

We are filing an appeal to the FCC in response to a denial of an appeal to the Universal Service Administrative Company, Schools & Libraries Division.

Our original appeal letter is attached. As we stated in the original letter; we have had occurrences in our school district that we consider circumstances beyond our control; unforeseeable, unexpected events that have prevented us from claiming a \$64,907.01 E-Rate award for our Category I Services from FY2006. As of August 10, 2009, we discovered that those funds were considered "committed" to the Pojoaque Valley School District from the SLD. It was only until the Form 486 was filed soon thereafter, that we received a denial, changing our committed amount to \$0.00. Obviously, the 120 day timeframe was not met; however, this is the basis for our appeal. While going through changes in personnel, it is very difficult, if not impossible to keep up to date on deadlines when there is a shifting of people to different job positions. E-Rate forms are not forms that can be filled out by just anyone; there is a certain level of expertise and knowledge about the program that the person must possess. We sincerely believe that these are considered "circumstances beyond our control", and feel strongly that by re-instating our funding, you would be expressing the greater good of the program, rather than just acting out of strict adherence to guidelines.

Pojoaque Valley Schools Board of Education

Margaret L. Tapia
President

J. David Ortiz
Vice-President

Reuben R. Royhal
Secretary

Sharon Dogruel
Member

Don Paul Romero
Member

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In fact, FCC Decision DA 06-1871, specifically addresses this situation.

Due to the severity of the changes in this district, we have not even applied for E-Rate funds in the last two years. We are now gaining stability in our district with our academics, programs, and personnel.

We respectfully request that we receive the original committed amount of \$64,907.01. Enclosed are copies of payments we made to our telecommunications service providers.

Thank you in advance for your consideration. Please feel free to call me for further clarification, if needed.

Sincerely,

A handwritten signature in black ink, appearing to read "Ruben Cordova", written in a cursive style.

Dr. Ruben Cordova
Assistant Superintendent

Enclosure

Contact Information:

Dr. Ruben Cordova
1574 State Road 502
Santa Fe, NM 87506
Phone Number: 505-455-2282
Fax Number: 505-455-7152
Email address: rac@pvs.k12.nm.us

2nd. Denial Letter from USAC



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2006-2007

September 02, 2009

Dr. Ruben Cordova
Pojoaque Valley Public Schools
1574 State Road 502
Santa Fe, NM 87506

Re: Applicant Name: POJOAQUE VALLEY PUBLIC SCHOOLS
Billed Entity Number: 143266
Form 471 Application Number: 522268
Form 486 Application Number: 596980
Funding Request Number(s): 1438336, 1438392, 1438435
Your Correspondence Dated: August 28, 2009

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2006 Form 486 Notification Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1438336, 1438392, 1438435
Decision on Appeal: **Denied**
Explanation:

- USAC has determined that the Forms 486 for the above listed funding requests should have been filed within 120-days calculated from the issuance date of the Funding Commitment Decision Letter or the Service Start Date as indicated on the Form 486, whichever is later. On January 26, 2007, USAC mailed an Urgent Reminder letter providing the applicant with additional time and a new deadline to submit and/or certify the FCC Form 486. The record shows that FCC Form 486 applications number 596980 was postmarked on July 16, 2009, which is after the new deadline. Consequently, the service start dates were revised to March 8, 2009, 120 days before the FCC Form 486 postmark date. It is the responsibility

of the applicant to ensure that all forms are submitted to USAC in a timely manner. As a result, the appeal is denied.

- FCC rules require applicants to use recurring services within the relevant funding year, and to implement non-recurring services by the applicable deadline established by the Commission. See 47 C.F.R. sec. 54.507(d). The FCC Form 486 informs USAC when the applicant is scheduled to receive or has received services in the relevant funding year from the named service provider. The receipt of a properly completed FCC Form 486 triggers the process for USAC to receive invoices. In order for an applicant to receive discounts retroactively to the Service Start Date (SSD), the FCC Form 486 should be postmarked no later than 120 days after the SSD featured on the FCC Form 486 or no later than 120 days after the date of the Funding Commitment Decision Letter (FCDL), whichever is later. When an applicant has missed a deadline to file its FCC Form 486, it is given additional 20 calendar days from the date of receipt USAC's written notice to file or amend its FCC Form 486 and receive services retroactively to the SSD. See Request for Review and Waiver of the Decision of the Universal Service Administrator by Alaska Gateway School District, Tok, AK, et al., Schools and Libraries Universal Service Support Mechanism, File Nos. SLD-412028, et. al., CC Docket No. 02-6, 21 FCC Rcd 10186-10187, DA 06-1871, para. 8 (rel. Sep. 14, 2006).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

1st Appeal

LETTER OF APPEAL

To Whom It May Concern:

Appellant Name: Dr. Ruben Cordova
Applicant Name: Pojoaque Valley Public Schools
Service Provider Name/SPIN: Qwest Communications- SPIN # 143005231
Verizon Business Global, LLC- SPIN # 143001197
Oso Grande Technologies- SPIN # 143023771
Billed Entity Number: 143266
Funding Request Numbers (FRN): 1438336, 1438392, 1434835
Document: Form 486 Number 596980
Form 486 Notification Letter for Funding Year 2006

I write this letter to appeal the decision to change our funding commitment from \$64,907.01 to \$0.00 due to a late filing of the form 486 by our district. The Form 486 Notification Letter – Funding Commitment Report states: *"Service Start Date Change Explanation: 120-Day 486 Deadline"*.

Pojoaque Valley Public Schools was late in filing the 486 form due to circumstances beyond our control. This has created a hardship on our district, not to mention the effective management of our E-Rate program. As per prior cases of late or missing 486 Forms due to different reasons, I am appealing this decision and asking that the original committed amount of \$64,907.01 be reinstated.

I am attaching a copy of the FCC Decision DA 06-1871 that specifically addresses this situation. This document specifically states, "The Commission may waive any provision of its rules on its own motion and for good cause shown.... In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis".

We read in page 4 section 5, "In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule".

Furthermore, in page 4 section 7 we read, "Based on the facts and the circumstances of these specific cases, we find that good cause exists to waive the deadline..."

We request to please review the attached document which serves as a precedence for our appeal.

Please do not hesitate to contact me should you have any questions.

Sincerely,



Dr. Ruben Cordova
Assistant Superintendent
1574 State Road 502
Santa Fe, NM 87506
Phone (505) 455-2282; Fax (505) 455-7152; email: rac@pvs.k12.nm.us

CC: Qwest Communications, Verizon Business Global, LLC, Oso Grande Technologies, Inc.

POJOAQUE VALLEY SCHOOL DISTRICT

FY: 2006-07

Vendor Totals by Amount

8/26/2009 4 23:41 PM

Page 1 Of 1

<u>Vend. Number</u>	<u>Name of Vendor (Order)</u>	<u>Paid Amount</u>	<u>Encumbrance*</u>	<u>FYTD Balance</u>	<u>Total Amount</u>	<u>1099</u>	<u>Use Tax</u>
91600	Q- WEST COMMUNICATIONS	\$46,602.43	\$0.00	\$0.00	\$46,602.43	N	N
* Includes payables							
<u>Grand Totals:</u>		\$46,602.43	\$0.00	\$0.00	\$46,602.43		

POJOAQUE VALLEY SCHOOL DISTRICT

FY: 2006-07

Vendor Totals by Amount

8/26/2009 4 24 06 PM

Page 1 Of 1

<u>Vend. Number</u>	<u>Name of Vendor (Order)</u>	<u>Paid Amount</u>	<u>Encumbrance*</u>	<u>FYTD Balance</u>	<u>Total Amount</u>	<u>1099</u>	<u>Use Tax</u>
0	OSO GRANDE TECHNOLOGIES, I	\$34,076.88	\$3,160.43	\$0.00	\$37,237.31	N	N
* Includes payables							
<u>Grand Totals:</u>		\$34,076.88	\$3,160.43	\$0.00	\$37,237.31		

POJOAQUE VALLEY SCHOOL DISTRICT

FY: 2006-07

Vendor Totals by Amount

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Page 1 Of 1

<u>Vend. Number</u>	<u>Name of Vendor (Order)</u>	<u>Paid Amount</u>	<u>Encumbrance*</u>	<u>FYTD Balance</u>	<u>Total Amount</u>	<u>1099</u>	<u>Use Tax</u>
3566	VERIZON WIRELESS, BELLEVUE	\$1,031.51	\$0.00	\$0.00	\$1,031.51	N	N
* Includes payables							
<u>Grand Totals:</u>		\$1,031.51	\$0.00	\$0.00	\$1,031.51		

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Requests for Review and Waiver)	
of the Decision of the)	
Universal Service Administrator by)	
)	
Alaska Gateway School District)	File Nos. SLD-412028, <i>et al.</i>
Tok, AK, <i>et al.</i>)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: September 14, 2006

Released: September 14, 2006

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant 128 appeals of decisions by the Universal Service Administrative Company (USAC) reducing or denying funding from the schools and libraries universal service support mechanism (also known as the E-rate program) on the grounds that they failed to timely submit an FCC Form 486.¹ As explained below, in each case we find that good cause exists to waive USAC's deadline for the FCC Form 486 filed with USAC and we remand the underlying applications associated with these appeals to USAC for further action consistent with this Order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the Appendix and issue an award or denial based upon a complete review and analysis no later than 90 days from the release of this Order. In addition, we direct USAC to develop targeted outreach procedures designed to better inform applicants of approaching FCC Form 486 filing deadlines and to provide applicants with a 15-day opportunity to file or amend the form.

2. As we recently noted, applicants seeking funding from the E-rate program contend that the application process is complicated and time-consuming.² As a result, a significant number of

¹In this Order, we use the term "appeals" to generically refer to requests for review of decisions, or to waivers related to such decisions, issued by the Commission, the Wireline Competition Bureau, or USAC. A list of these petitions is attached in the Appendix and we will refer to all of these parties as Petitioners. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

²*Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Linkup, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308 (2005) (*Comprehensive Review NPRM*).

applications for E-rate support are denied because of applicant ministerial or clerical errors. We find that the actions we take here to provide relief will promote the statutory requirements of section 254(h) of the Communications Act of 1934, as amended (the "Act"), by helping to ensure that eligible schools and libraries obtain access to discounted telecommunications and information services.³ In particular, we believe that by directing USAC to enhance certain application outreach procedures and granting this limited waiver of the deadline, we will provide for a more effective application processing system that ensures eligible schools and libraries will be able to realize the intended benefits of the program as we consider additional steps to reform and improve the E-rate program.⁴ Requiring USAC to take these additional steps will not reduce or eliminate any application review procedures or program requirements that applicants must comply with to receive funding. Indeed, we retain our commitment to detecting and deterring potential instances of waste, fraud, and abuse by ensuring that USAC continues to scrutinize applications and takes steps to educate applicants in a manner that fosters program participation. We also emphasize that our actions taken in this Order should have minimal impact on the Universal Service Fund (USF or Fund) because the monies needed to fund these appeals have already been collected and held in reserve.⁵

II. BACKGROUND

3. Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connections.⁶ After an applicant for discounted services under the E-rate program has entered into agreements for eligible services with one or more service providers, it must file an FCC Form 471 with USAC.⁷ The FCC Form 471 notifies USAC of the services that have been ordered and supplies an estimate of funds requested for eligible services.⁸ USAC then issues a funding commitment decision letter indicating the funding, if any, for which the applicant is approved to receive. After the funding year begins and the applicant begins receiving services at the discounted rate, the applicant submits an FCC Form 486 to USAC. The FCC Form 486 indicates that the service has begun, specifies the service start date and demonstrates that the applicant has received approval of its technology plans.⁹ The timely

³47 U.S.C. § 254(h). The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, amended the Communications Act of 1934.

⁴*Comprehensive Review NPRM*, 20 FCC Rcd at 11324-25, paras. 37-40 (seeking comment on the application process and competitive bidding requirements for the schools and libraries program).

⁵We estimate that the appeals granted in this Order involve applications for approximately \$11.3 million in funding for Funding Years 2000-2005. We note that USAC has already reserved sufficient funds to address outstanding appeals. See, e.g., Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter 2006, dated May 2, 2006.

⁶See 47 C.F.R. §§ 54.501-54.503.

⁷See Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (December 1997) (Funding Year 1999 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (Funding Year 2000 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2000) (Funding Year 2001 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2001) (Funding Year 2002 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2003) (Funding Year 2004 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2004) (Funding Year 2005 FCC Form 471) (collectively, FCC Form 471).

⁸47 C.F.R. § 54.504(c).

⁹Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (April 2000) (2000 FCC Form 486 Instructions); Instructions for Completing the

submission of FCC Form 486 ensures that disbursements for discounts on eligible services are done in a prompt and efficient manner. Because the FCC Form 486 indicates the actual service start date, USAC will only issue disbursements to the service provider for discounts on eligible services after receipt of the form.¹⁰

4. The deadline for receipt of the FCC Form 486, which is established by USAC, has varied over the years. In Funding Year 2000, applicants with recurring services were required to submit the FCC Form 486 postmarked by December 14, 2001.¹¹ In Funding Year 2001, the FCC Form 486 was due October 28, 2001, unless the service start date began or a funding commitment decision letter was issued after October 28, 2001.¹² In that case, the FCC Form 486 was required to be postmarked no later than 120 days after the service start date or the date of the funding commitment decision letter, whichever was later, for applicants to receive discounts retroactively to the service start date.¹³ If an applicant failed to meet this requirement, USAC adjusted the start date for discounted services to either the date that the FCC Form 486 was postmarked or, in cases where the funding commitment decision letter came after the October 28, 2001 deadline, to 120 days before the date that the FCC Form 486 was postmarked.¹⁴ In Funding Year 2002 and subsequent funding years, the FCC Form 486 had to be postmarked no later than 120 days after the date service began or no later than 120 days after the date of the funding commitment decision letter, whichever was later, to receive discounts retroactively to the service start date.¹⁵ For a late FCC Form 486, the start date for discounted services is reset to 120 days before the postmark date.¹⁶ No

Schools and Libraries Universal Service Receipt of Service Confirmation Form, OMB 3060-0853 (July 2001) (2001 FCC Form 486 Instructions); Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (September 2002) (2002 FCC Form 486 Instructions); Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (August 2003) at 2 (2003 FCC Form 486 Instructions) (collectively, FCC Form 486 Instructions).

¹⁰See, e.g., 2003 Form 486 Instructions at 2. See also *Federal-State Joint Board on Universal Service, Children's Internet Protection Act*, CC Docket No. 96-45, Order, 17 FCC Rcd 12443, 12444, para. 4 (2002) (*CIPA II Order*); 47 C.F.R. § 54.520.

¹¹See November 2001 Announcements, Funding Year 3 Disbursement Closeout Process, available at <http://www.sl.universalservice.org/whatsnew/2001/112001.asp>.

¹²*Federal-State Joint Board on Universal Service, Children's Internet Protection Act*, CC Docket No. 96-45, Report and Order, 16 FCC Rcd 8182, 8188-89, 8191, paras. 10, 18 (2001) (*CIPA Order*); 47 C.F.R. § 54.520(g)(1) (2001); 2001 Form 486 Instructions. Under the Children's Internet Protection Act (CIPA) and the Neighborhood Children's Internet Protection Act (NCIPA), Congress imposed new conditions on schools with Internet access that request discounted services under the schools and libraries universal service support mechanism. 47 U.S.C. § 254(h)(5), 254(i). Schools seeking costs for Internet access or internal connections services must certify to these conditions on the FCC Form 486. For Funding Year 2001, Congress established a deadline of October 28, 2001, unless services began after that date or the funding commitment decision letter was sent after that date. 47 U.S.C. §§ 254(h)(5)(E), 254(h)(6)(E); *CIPA Order*, 16 FCC Rcd at 8188-89, 8191, paras. 10, 18. Because the October 28, 2001 deadline for that funding year is a statutory requirement, it cannot be waived.

¹³2001 Form 486 Instructions at 8-10.

¹⁴Form 2001 486 Instructions at 9-10. See, e.g., *Request for Review by East Carroll Parish School Board, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-232946, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 24591, 24594, para. 7 (Wireline Comp. Bur. 2002) (providing funding only for services provided on or after the FCC Form 486 filing date of October 30, 2001, instead of the funding year start date of July 1, 2001).

¹⁵*CIPA II Order*, 17 FCC Rcd at 12445, para. 5; 2003 Form 486 Instructions at 6.

¹⁶*Id.*

funding is provided for services rendered prior to the new start date and funding commitments are reduced for the relevant funding request.¹⁷

5. One hundred and twenty-eight Petitioners have requested a waiver of the deadlines or a review of USAC's decision to deny or reduce funding because of the Petitioners' late filings. The Commission may waive any provision of its rules on its own motion and for good cause shown.¹⁸ A rule may be waived where the particular facts make strict compliance inconsistent with the public interest.¹⁹ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.²⁰ In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.²¹

III. DISCUSSION

6. In this item, we grant 128 appeals of decisions reducing or denying requests for funding from the E-rate program and remand the underlying applications associated with these appeals to USAC for further action consistent with this Order.²² Petitioners' requests for funding were denied or reduced because USAC found that the FCC Form 486 was filed late or the form may not have been filed.²³ These Petitioners, however, either claim that the filings were on time,²⁴ that the late filings were the result of immaterial clerical, ministerial or procedural errors,²⁵ or that the late filings were due to circumstances beyond their control.²⁶

7. Based on the facts and the circumstances of these specific cases, we find that good cause exists to waive the deadline for filing the FCC Form 486 for Petitioners.²⁷ Under Bureau precedent,

¹⁷ *Id.*

¹⁸ 47 C.F.R. §1.3.

¹⁹ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

²⁰ *WAIT Radio v. FCC*, 418 F.2d 1153, 1157, (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972).

²¹ *Northeast Cellular*, 897 F.2d at 1166.

²² Eldora Public Library (Eldora) framed its request for review as an appeal of USAC's denial of its request for an extension of the invoice deadline (FCC Form 472). Our review of the record indicates that Eldora did not file its FCC Form 486. Eldora claims that it inadvertently failed to comply with program rules because of Eldora's small staff and the complexity of the E-rate program. On our own motion, we grant a waiver of Eldora's FCC Form 486 deadline.

²³ See Appendix.

²⁴ See, e.g., Request for Review by Fair Haven School District; Request for Review by Oldham County Public Library; Request for Review by Schuylkill Intermediate Unit No. 29; Request for Review by Bordentown Regional School District; Request for Review by Diocese of Gallup Catholic Schools.

²⁵ See, e.g., Request for Review by Quartzsite Elementary School District No. 4; Request for Review by Fort Plain Central School District; Request for Review by Good Shepard Center; Request for Review by Pueblo 60 School District; Request for Review by Lifeline Center for Child Development.

²⁶ See, e.g., Request for Review by Yukon Flats School District; Request for Review by School District U 46; Request for Review by North Wasco County School District No. 21; Request for Waiver by Bay County School District; Request for Review by Western Christian High School.

²⁷ Because we waive the FCC Form 486 deadline, applicants should receive funding from their actual service start date. We also direct USAC to waive any of its subsequent deadlines if related to the late-filed FCC Form 486, such as the FCC Form 472 deadline, if necessary for the processing of Petitioners' applications.

deadlines have been strictly enforced for the E-rate program, including those pertaining to the FCC Form 486.²⁸ As we recently noted in *Bishop Perry Middle School*, a departure from required filing deadlines may be warranted upon careful review of the Petitioner's case and when doing so will serve the public interest.²⁹ Generally, these applicants claim that staff mistakes or confusion, or circumstances beyond their control resulted in missing the FCC Form 486 deadline.³⁰ We note that the primary jobs of most of the people filling out these forms include school administrators, technology coordinators and teachers, as opposed to staff dedicated to pursuing federal grants, especially in small school districts. Even when a school official becomes adept at the application process, unforeseen events or emergencies may delay filings in the event there is no other person proficient enough to complete the forms.³¹ Furthermore, some of the errors were caused by third parties or unforeseen events and therefore were not the fault of the applicants. Given that the applicants missed a USAC procedural deadline and did not violate a Commission rule, we find that the complete rejection of each of these applications is not warranted. Notably, at this time, there is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements. Furthermore, we find that denial of funding in these cases would inflict undue hardship on the applicants. In these cases, the applicants have demonstrated that rigid compliance with USAC's application procedures does not further the purposes of section 254(h) or serve the public interest.³² We therefore grant these appeals and remand them to USAC for further processing consistent with this Order.

8. We emphasize the limited nature of this decision. Because the FCC Form 486 contains the Children's Internet Protection Act (CIPA) certification, all applicants must file the form with USAC.³³ While we have waived the deadline for filing, we do not waive the requirement of the filing itself. Furthermore, we recognize that filing deadlines are necessary for the efficient administration of the schools and libraries E-rate program. Although we grant the subject appeals before us, our action here does not eliminate USAC's deadline for filing the FCC Form 486. We continue to require E-rate applicants to submit complete and accurate information to USAC as part of the application review process. However, as of the effective date of this Order, we require USAC to develop additional outreach and educational efforts to inform applicants of the application requirements in an attempt to reduce these types of filing errors. Specifically, USAC shall develop a targeted outreach program designed to identify schools and libraries that have not filed their FCC Form 486 120 days from the date of their funding commitment decision letter or service start date, whichever is later.³⁴ The purpose of this outreach effort

²⁸See *Requests for Waiver by Lucia Mar Unified School District, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-249712, et al., CC Docket No. 02-6, Order, 19 FCC Rcd. 20364, para. 3 (Wireline Competition Bur. Rel. May 28, 2004); *Request for Review by East Carroll Parish School Board, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-232946, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 24591, 24594, para. 7 (Wireline Comp. Bur. 2002).

²⁹*Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487170, et al., CC Docket No. 02-6, Order, 21 FCC Rcd 5316, para. 9 (rel. May 19, 2006) (*Bishop Perry Middle School*).

³⁰Some Petitioners claim that they postmarked the FCC Form 486 on time. Given that we are waiving USAC's deadline for these applicants who mistakenly or knowingly filed late, we give these Petitioners the benefit of the doubt and, to the extent necessary, waive the FCC Form 486 filing deadline for them as well.

³¹For example, Western Christian High School's sole Universal Service Fund official suffered a debilitating stroke and was unable to meet the Form 486 deadline. *Request for Review by Western Christian High School* at 1.

³²See 47 U.S.C. § 254(h).

³³Those applicants that filed their FCC Form 486 with their appeal to the Commission must also file the form with USAC, if they have not already done so.

³⁴The service start date can be determined from Block 5 of the applicant's FCC Form 471.

will be to provide the applicant with an additional opportunity to file or amend its FCC Form 486. When an applicant has missed the deadline to file its FCC Form 486, applicants will have 15 calendar days from the date of receipt of notice in writing by USAC to file or amend its FCC Form 486.³⁵ Again, this direction will not limit or preclude any application review procedures of USAC; instead, this 15-day period will provide E-rate applicants with a limited additional opportunity to file or amend its FCC Form 486. The 15-day period is limited enough to ensure that funding decisions are not unreasonably delayed for E-rate applicants and should be sufficient time to correct truly unintentional ministerial and clerical errors.³⁶ The opportunity for applicants to file or amend their filings to cure minor errors will also improve the efficiency and effectiveness of the Fund. Because applicants who are eligible for funding will now receive funding where previously it was denied for minor errors, we will ensure that funding is distributed first to the applicants who are determined by our rules to be most in need of funding. As a result, universal service support will be received by schools in which it will have the greatest impact for the most students. Furthermore, the opportunity to file or amend the application will improve the efficiency of the schools and libraries program. If USAC helps applicants file timely and correct forms initially, USAC should be able to reduce the money it spends on administering the fund because fewer appeals will be filed protesting the denial of funding for these types of issues. Therefore, we believe this additional opportunity to file the FCC Form 486 will improve the administration of fund. In addition, we note that the Commission has initiated a proceeding to address whether particular deadlines should be modified.³⁷

9. Finally, we are committed to guarding against waste, fraud, and abuse, and ensuring that funds disbursed through the E-rate program are used for appropriate purposes. Although we grant the appeals addressed here, this action in no way affects the authority of the Commission or USAC to conduct audits and investigations to determine compliance with the E-rate program rules and requirements. Because audits and investigations may provide information showing that a beneficiary or service provider failed to comply with the statute or Commission rules, such proceedings can reveal instances in which universal service funds were improperly disbursed or in a manner inconsistent with the statute or the Commission's rules. To the extent we find that funds were not used properly, we will require USAC to recover such funds through its normal processes. We emphasize that we retain the discretion to evaluate the uses of monies disbursed through the E-rate program and to determine on a case-by-case basis that waste, fraud, or abuse of program funds occurred and that recovery is warranted. We remain committed to ensuring the integrity of the program and will continue to aggressively pursue instances of waste, fraud, or abuse under our own procedures and in cooperation with law enforcement agencies.

IV. ORDERING CLAUSES

10. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47

³⁵Such 15-day notice shall be 15 calendar days' notice, and shall commence on the date of receipt of such notice by applicant, or five (5) calendar days after such notice is postmarked as sent by USAC, whichever is sooner. Applicants will be presumed to have received notice five days after such notice is postmarked by USAC. USAC, however, shall continue to work beyond the 15 days with applicants attempting in good faith to file or amend their FCC Form 486.

³⁶We note that applicants will retain the ability to appeal decisions denying funding requests on the grounds discussed herein.

³⁷*Comprehensive Review NPRM*, 20 FCC Rcd at 11321, para. 29.

C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the Requests for Review and/or Requests for Waiver filed by the Petitioners as listed in the Appendix ARE GRANTED.

11. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Requests for Review and/or Requests for Waiver filed by the Petitioners as listed in the Appendix ARE REMANDED to USAC for further consideration in accordance with the terms of this Order.

12. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, USAC SHALL COMPLETE its review of each remanded application listed in the Appendix and ISSUE an award or a denial based on a complete review and analysis no later than 90 calendar days from release of this Order.

13. IT IS FURTHER ORDERED that this Order and the rules adopted herein SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Navin
Chief
Wireline Competition Bureau

1st. Denial Letter
from USAC



Schools and Libraries Division

FORM 486 NOTIFICATION LETTER
(Funding Year 2006: 07/01/2006 - 06/30/2007)

August 19, 2009

RUBEN CORDOVA
POJOAQUE VALLEY PUBLIC SCHOOLS
1574 STATE RD 502
SANTE FE, NM 87506

Re: Form 486 Application Number: 596980
Applicant's Form 486 Identifier: PVS-FY06 T

This letter is to notify you that the Universal Service Administrative Company (USAC) has received and accepted an FCC Form 486, Receipt of Service Confirmation Form, from you. This notification is to confirm the information that you provided. This information is being shared with the service provider whose SPIN you identified on each Funding Request Number (FRN).

You may be receiving this letter to revise or correct a previous Form 486 Notification Letter. The information contained in this letter supersedes any previous notification you may have received, including, but not limited to, a previously adjusted Service Start Date or previously reduced funding commitment.

NEXT STEPS

Discuss with your service provider whether you would like discounts on your bills or to pay your bills in full and be reimbursed for discounts.

Invoice USAC before the invoice deadline using the applicant invoice (BEAR Form - FCC Form 472) for reimbursements after paying the bills in full or the service provider invoice (SPI Form - FCC Form 474) for discounts. Whichever method you choose, you must pay your non-discount portion, as stated in Program rules. Program rules also require that participants maintain all documentation for at least five years after delivery of discount service.

TO APPEAL THE SERVICE START DATE/FUNDING COMMITMENT CHANGE DECISION

If you wish to appeal the Service Start Date change(s) and/or funding commitment adjustment(s) indicated in this letter, your appeal must be received by USAC or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and (if available) email address for the person who can most readily discuss this appeal with us.

2. State outright that your letter is an appeal. Include the following to identify the letter and the decision you are appealing:
 - appellant name,
 - applicant or service provider name, if different than appellant,
 - applicant BEN and service provider SPIN,
 - Form 486 Number 596980 and FRN(s) as assigned by USAC,
 - "Form 486 Notification Letter for Funding Year 2006", AND
 - the exact text or the decision that you are appealing.
3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation
4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by the USAC s decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by the USAC s decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email your appeal to appeals@sl.universalservice.org. USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to us by fax, fax your appeal to (973) 599-6542.

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Division - Correspondence Unit
100 South Jefferson Road
P.O. Box 902
Whippany, NJ 07981

You have the option of filing an appeal with USAC or directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted on our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

A guide to the data reported in our letter reports is posted in the Reference Area of our website. Complete Program information, including invoice deadlines is also posted on our website. You may also contact our Client Service Bureau by email using the "Submit a Question" link on our website, toll-free by fax at 1-888-276-8736, or toll-free by phone at 1-888-203-8100.

Schools and Libraries Division
Universal Service Administrative Company

FORM 486 NOTIFICATION LETTER REPORT
(Funding Year 2006)

Funding Request Number: 1438336
Form 471 Application Number: 522268
Service Provider Name: Qwest Corporation
Service Provider Identification Number: 143005231
Billing Account Number: 505-455-2282
Service Start Date: 03/08/2009*
Service Start Date Change Explanation: 120-DAY 486 DEADLINE
Adjusted Funding Commitment: \$0.00

Funding Request Number: 1438392
Form 471 Application Number: 522268
Service Provider Name: Verizon Business Global LLC
Service Provider Identification Number: 143001197
Billing Account Number: 505-455-2282
Service Start Date: 03/08/2009*
Service Start Date Change Explanation: 120-DAY 486 DEADLINE
Adjusted Funding Commitment: \$0.00

Funding Request Number: 1438435
Form 471 Application Number: 522268
Service Provider Name: Oso Grande Technologies, Inc.
Service Provider Identification Number: 143023771
Billing Account Number: N/A
Service Start Date: 03/08/2009*
Service Start Date Change Explanation: 120-DAY 486 DEADLINE
Adjusted Funding Commitment: \$0.00